

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CENTURY INDEMNITY COMPANY, AS :
SUCCESSOR TO CCI INSURANCE : ELECTRONICALLY FILED
COMPANY, AS SUCCESSOR TO :
INSURANCE COMPANY OF NORTH :
AMERICA and THE CONTINENTAL : Index No. 08 Civ. 02012 (PKL)
INSURANCE COMPANY, :
:
Plaintiffs, : **NOTICE OF MOTION**
:
v. :
:
FREEPORT-MCMORAN COPPER & GOLD :
INC., AS THE CLAIMED SUCCESSOR TO :
PHELPS DODGE CORPORATION, AS THE :
CLAIMED SUCCESSOR TO CYPRUS :
AMAX MINERALS COMPANY, AS THE :
CLAIMED SUCCESSOR TO AMAX, INC., :
AS SUCCESSOR TO AMERICAN METAL :
CLIMAX, INC., :
:
Defendant. :
:
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PLEASE TAKE NOTICE, that upon the annexed affidavits of Gregory D. Winfree, Victoria Bellamy, and Michelle A. Hughes, each dated May 22, 2008; and the Declaration of Chelsea J. Walsh, dated May 22, 2008; and for the reasons set forth in the accompanying Memorandum of Law In Support of Its Motion to Dismiss or Stay this Action, Defendant Freeport-McMoRan Copper & Gold Inc. ("Defendant"), by its attorneys Heller Ehrman LLP, will move this Court before the Honorable Peter K. Leisure, United States District Court Judge at the United States Courthouse, 500 Pearl Street, New York, New York, on a date and time to be determined by the Court, for an Order dismissing the Complaint with prejudice pursuant to Rules 12(b)(1), 12(b)(6), and 12(b)(7) of the Federal Rules of Civil Procedure, and for an Order dismissing the Complaint or staying this action under the abstention doctrines set forth by the

U.S. Supreme Court in *Wilton v. Seven Falls Co.*, 515 U.S. 277 (1985) and *Colorado River Water Conserv. Dist. v. United States*, 414 U.S. 800 (1978).

PLEASE TAKE FURTHER NOTICE that counsel for Defendant hereby requests oral argument.

DATED: New York, New York
May 23, 2008

Respectfully submitted,
HELLER EHRMAN LLP

Mark J. Plumer /s/
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